

# THE PIC AND POPS CONVENTIONS AND THE LRTAP POPS PROTOCOL ACT

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## HEARING

BEFORE THE

## COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

**H.R. 3849**

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JULY 20, 2006

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## **THE PIC AND POPS CONVENTIONS AND THE LRTAP POPS PROTOCOL ACT**

**THURSDAY, JULY 20, 2006**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC.*

The committee met, pursuant to call, at 10:00 a.m., in room 1300 of the Longworth House Office Building, Hon. Bob Goodlatte (chairman of the committee) presiding.

Members present: Representatives Pombo, Lucas, Moran, Johnson, Osborne, Bonner, Schwarz, Foxx, Conaway, Peterson, Holden, Etheridge, Cuellar, Boswell, and Chandler.

Staff present: John Goldberg, Kevin Kramp, Josh Maxwell, Callista Gingrich, clerk; Robert L. Larew, and Christy Birdsong.

### **OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

The CHAIRMAN. Good morning. This hearing of the Committee on Agriculture to review H.R. 3849, the PIC and POPS Conventions and the LRTAP POPS Protocol Implementation Act, will come to order.

Over the last several years, members of this committee have worked with the administration in a bipartisan effort to develop legislation necessary to implement three very important treaties related to pesticides and hazardous chemical substances.

The unnecessarily long names of these treaties, the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade make it easy to see why we simply refer to them as PICs and POPs.

I would like to take a moment to acknowledge the leadership of Representative Frank Lucas, chairman of the Subcommittee on Conservation, Credit, Rural Development and Research, along with the subcommittee's ranking member, Representative Tim Holden, for their efforts in developing this legislation. I would also like to acknowledge the support of the full committee ranking member, Representative Peterson, who, along with me, is a co-sponsor of the bill.

As many of you know, the negotiations that culminated in each of these three agreements have a long and laborious history that I am more than happy to allow our witness to summarize. Suffice

it to say that these negotiations spanned several administrations and have enjoyed support from both political parties.

While many of us can point to one or more international agreements that have had less than positive results, I think we can all agree that the interests of the United States were well represented regarding the treaties that we are discussing today.

Unfortunately, if we delay ratification further in the United States, much of the hard work could potentially be undone. Currently, the conference of the parties is meeting to discuss new pesticides to be added to the treaty annex, compliance guidelines, financial mechanisms and other administrative issues. Only countries that have ratified the treaty can participate in these discussions.

The longer we wait to ratify the treaty of which passage of this bill is a necessary pre-cursor, the less control we have over decisions which could have potentially negative consequences for America's farmers and ranchers. This is why it is so important that this committee pass H.R. 3849 and insure that our country's interests are represented in the conference of the parties.

I should add that throughout the time we have spent developing this legislation, we have had numerous meetings with interested parties to seek their input. Our approach with this legislation has been to make only those modifications to the Federal Insecticide, Fungicide and Rodenticide Act, FIFRA, that absolutely necessary for the United States to comply with these treaties; no more and no less. While some groups have expressed a desire to use this legislation as a means to address long-standing unrelated concerns with FIFRA, most groups we have met with have endorsed the purpose-driven and focused approach we have taken.

Along these lines, I have received a letter from Crop Life America and cosigned by the leaders of the Fertilizer Institute, Agricultural Retailers Association, National Corn Growers Association and the National Cotton Council, endorsing this legislation and urging its immediate passage. Copies of this letter are included in each Member's packet and I ask unanimous consent that a copy of the letter be included in the record of this hearing, as well as a copy of the bill now under consideration.

Without objection, it is so ordered.

[A copy of H.R. 3849 follows, additional material appears at the conclusion of the hearing.]

109TH CONGRESS  
1ST SESSION

# H. R. 3849

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2005

Mr. LUCAS (for himself, Mr. GOODLATTE, Mr. PETERSON of Minnesota, and Mr. HOLDEN) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “PIC and POPs Con-  
3 ventions and the LRTAP POPs Protocol Implementation  
4 Act”.

5 **SEC. 2. DEFINITIONS.**

6       Section 2 of the Federal Insecticide, Fungicide, and  
7 Rodenticide Act (7 U.S.C. 136 et seq.) is amended by add-  
8 ing at the end the following:

9       “(pp) CONFERENCE.—The term ‘Conference’ means  
10 the Conference of the Parties established by paragraph 1  
11 of Article 19 of the POPs Convention.

12       “(qq) CONFERENCE LISTING DECISION.—The term  
13 ‘Conference Listing Decision’ means a decision by the  
14 Conference to approve an amendment to list a pesticide  
15 in Annex A or Annex B to the POPs Convention.

16       “(rr) DESIGNATED NATIONAL AUTHORITY.—The  
17 term ‘designated national authority’ means the authority  
18 or authorities that a government has designated in a noti-  
19 fication to the PIC Convention Secretariat in accordance  
20 with Article 4 of the PIC Convention.

21       “(ss) EXECUTIVE BODY.—The term ‘Executive  
22 Body’ means the Executive Body established by Article 10  
23 of the 1979 Convention on Long-Range Transboundary

1 of the Executive Body titled ‘Executive Body Decision  
2 1998/2 on Information to Be Submitted and the Proce-  
3 dure for Adding Substances to Annexes I, II, or III to  
4 the Protocol on Persistent Organic Pollutants’ and any  
5 other Executive Body decision done pursuant to Article  
6 14 of the LRTAP POPs Protocol.

7 “(uu) HCH.—The term ‘HCH’ means hexachloro-  
8 cyclohexane.

9 “(vv) LRTAP POPs PESTICIDE.—The term  
10 ‘LRTAP POPs pesticide’ means—

11 “(1) aldrin;

12 “(2) chlordane;

13 “(3) chlordecone;

14 “(4) dichlorodiphenyltrichloroethane (DDT);

15 “(5) dieldrin;

16 “(6) endrin;

17 “(7) HCH;

18 “(8) heptachlor;

19 “(9) hexachlorobenzene;

20 “(10) hexabromobiphenyl;

21 “(11) mirex;

22 “(12) PCBs;

23 “(13) toxaphene; and

24 “(14) any other pesticide—



1           “(A) that is listed on Annex I or Annex II  
2           of the LRTAP POPs Protocol;

3           “(B) that has no existing United States  
4           registrations that would prevent the United  
5           States from complying with its obligations  
6           under the LRTAP POPs Protocol if the United  
7           States were to become a party to the LRTAP  
8           POPs Protocol for that pesticide; and

9           “(C) for which an amendment listing it on  
10          Annex I or Annex II of the LRTAP POPs Pro-  
11          tocol has entered into force for the United  
12          States.

13          “(ww) LRTAP POPs PROTOCOL.—The term  
14          ‘LRTAP POPs Protocol’ means the Protocol on Persistent  
15          Organic Pollutants to the 1979 Convention on Long-  
16          Range Transboundary Air Pollution done at Aarhus on  
17          June 24, 1998, if the United States is a party and any  
18          subsequent amendment to which the United States is a  
19          party.

20          “(xx) PCB.—The term ‘PCB’ means a poly-  
21          chlorinated biphenyl.

22          “(yy) PIC CONVENTION.—The term ‘PIC Conven-  
23          tion’ means the Rotterdam Convention on the Prior In-

1 terdam on September 10, 1998, if the United States is  
2 a party and any subsequent amendment to which the  
3 United States is a party.

4 “(zz) POPS CONVENTION.—The term ‘POPs Con-  
5 vention’ means the Stockholm Convention on Persistent  
6 Organic Pollutants done at Stockholm on May 22, 2001,  
7 if the United States is a party and any subsequent amend-  
8 ment to which the United States is a party.

9 “(aaa) POPS PESTICIDE.—The term ‘POPS pes-  
10 ticide’ means—

11 “(1) aldrin;

12 “(2) chlordane;

13 “(3) dichlorodiphenyltrichloroethane (DDT);

14 “(4) dieldrin;

15 “(5) endrin;

16 “(6) heptachlor;

17 “(7) hexachlorobenzene;

18 “(8) mirex;

19 “(9) PCBs;

20 “(10) toxaphene; and

21 “(11) any other pesticide—

22 “(A) that is listed on Annex A or Annex  
23 B of the POPS Convention;

1 States from complying with its obligations  
2 under the POPs Convention if the United  
3 States were to become a party to the POPs  
4 Convention for that pesticide; and

5 “(C) for which an amendment listing it on  
6 Annex A or Annex B of the POPs Convention  
7 has entered into force for the United States.

8 “(bbb) POPs REVIEW COMMITTEE.—The term  
9 ‘POPs Review Committee’ means the Persistent Organic  
10 Pollutants Review Committee established under paragraph  
11 6 of Article 19 of the POPs Convention.”.

12 **SEC. 3. POPS CONVENTION, LRTAP POPS PROTOCOL, AND**  
13 **PIC CONVENTION.**

14 Section 17 of the Federal Insecticide, Fungicide, and  
15 Rodenticide Act (7 U.S.C. 136o) is amended—

16 (1) in the heading for the section, by striking  
17 “**IMPORTS AND EXPORTS.**” and inserting “**IM-**  
18 **PORTS, EXPORTS, AND INTERNATIONAL CON-**  
19 **VENTIONS.**”;

20 (2) in subsection (a)—

21 (A) in the matter preceding paragraph (1),  
22 by striking “this Act—” and inserting “this  
23 Act, if—”;

1 (i) by striking “when” and inserting  
2 “the pesticide or device or active ingredient  
3 used in producing a pesticide is”; and

4 (ii) by striking “and” after the semi-  
5 colon; and

6 (C) by striking paragraph (2) and all that  
7 follows and inserting the following:

8 “(2) in the case of any pesticide other than a  
9 pesticide registered under section 3 or sold under  
10 section 6(a)(1), the foreign purchaser has, prior to  
11 export, signed a statement acknowledging that the  
12 purchaser understands that the pesticide is not reg-  
13 istered for use in the United States and cannot be  
14 sold in the United States under this Act; and

15 “(3) such export is in compliance with all of the  
16 applicable provisions of this section.

17 A copy of the statement under paragraph (2) shall be  
18 transmitted to an appropriate official of the government  
19 of the importing country.”;

20 (3) in subsection (c), by adding at the end the  
21 following: “Nothing in this subsection shall permit  
22 the import of any POPS pesticide or LRTAP POPS  
23 pesticide that otherwise is prohibited under sub-

1           (4) by striking subsections (d) and (e) and in-  
2       serting the following:

3       “(d) COOPERATION IN INTERNATIONAL EFFORTS  
4       GENERALLY.—The Administrator shall participate and  
5       cooperate in any international efforts to develop improved  
6       pesticide research and regulations.

7       “(e) POPS CONVENTION, LRTAP POPS PROTOCOL,  
8       AND PIC CONVENTION.—

9           “(1) IN GENERAL.—The Administrator shall  
10      participate in technical cooperation and capacity  
11      building activities designed to support implementa-  
12      tion of the POPs Convention, the LRTAP POPs  
13      Protocol, and the PIC Convention.

14          “(2) PROHIBITIONS.—No person may sell, dis-  
15      tribute, use, produce, or dispose of a POPS pesticide  
16      or LRTAP POPS pesticide in a manner inconsistent  
17      with obligations of the United States under the  
18      POPs Convention or LRTAP POPs Protocol.

19          “(3) NOTICE AND REPORT AFTER DECISION  
20      THAT SCREENING CRITERIA ARE MET UNDER THE  
21      POPS CONVENTION OR AFTER RISK PROFILE SUB-  
22      MITTED UNDER THE LRTAP POPS PROTOCOL.—

23          “(A) APPLICABILITY.—This paragraph ap-

1 “(i) the POPs Review Committee or  
2 Conference decides—

3 “(I) under paragraph 4(a) of Ar-  
4 ticle 8 of the POPs Convention, that  
5 a proposal for listing a pesticide in  
6 Annex A, B, or C to the POPs Con-  
7 vention fulfills the screening criteria  
8 specified in Annex D to the POPs  
9 Convention; or

10 “(II) under paragraph 5 of Arti-  
11 cle 8 of the POPs Convention, that  
12 such a proposal shall proceed; or

13 “(ii) a party to the LRTAP POPs  
14 Protocol submits to the Executive Body a  
15 risk profile in support of a proposal to list  
16 a pesticide in Annex I, II, or III to the  
17 LRTAP POPs Protocol.

18 “(B) NOTICE.—After the date of the POPs  
19 Review Committee or Conference decision on a  
20 proposal or the submission of a risk profile in  
21 support of a proposal under the LRTAP POPs  
22 Protocol described in clauses (i) or (ii) of sub-  
23 paragraph (A), respectively, the Administrator

1 “(i) publish in the Federal Register a  
2 notice of the proposal; and

3 “(ii) provide opportunity for comment  
4 on the proposal.

5 “(C) REQUIRED ELEMENTS OF NOTICE.—  
6 A notice under subparagraph (B) shall—

7 “(i) identify the pesticide that is the  
8 subject of the proposal;

9 “(ii) include a summary of the process  
10 under the POPs Convention or the  
11 LRTAP POPs Protocol for the submission  
12 of a proposal and listing of a pesticide that  
13 is the subject of a proposal (including cri-  
14 teria applied in that process);

15 “(iii) include a summary of the POPs  
16 Review Committee or Conference decision  
17 and the basis for the decision or a sum-  
18 mary of the risk profile that a party to the  
19 LRTAP POPs Protocol submitted to the  
20 Executive Body;

21 “(iv) request information relevant to  
22 and comment on—

23 “(I) in the case of a pesticide

1 requirements and screening criteria  
2 elements covered under Annex D to  
3 the POPs Convention; or

4 “(II) in the case of a pesticide  
5 proposed for listing in an Annex to  
6 the LRTAP POPs Protocol, the infor-  
7 mation referenced in paragraph 6(a)  
8 of Article 14 of the LRTAP POPs  
9 Protocol;

10 “(v) request information set forth in  
11 subparagraph (D);

12 “(vi) include any other information  
13 that the Administrator considers to be rel-  
14 evant to the proposal;

15 “(vii) request information and com-  
16 ment on information relevant to the risk  
17 profile of the POPs Review Committee cov-  
18 ered under Annex E to the POPs Conven-  
19 tion and on information relevant to any  
20 technical review conducted under para-  
21 graph 2 of Executive Body Decision 1998/  
22 2; and

23 “(viii) include a statement that any



1           lated to the pesticide that the Adminis-  
2           trator may undertake under section 6.

3           “(D) PROVISION OF INFORMATION.—

4                 “(i) PROVISION OF INFORMATION  
5           UNDER POPS CONVENTION.—Within 60  
6           days after the date of publication of the  
7           notice under subparagraph (B) regarding a  
8           proposal to list a pesticide on an Annex to  
9           the POPs Convention, or within a later  
10          date as determined by the Administrator,  
11          any interested person may provide to the  
12          Administrator information or comment  
13          on—

14                 “(I) the annual quantity of the  
15           pesticide manufactured and the loca-  
16           tions of the manufacture;

17                 “(II) the uses of the pesticide;

18                 “(III) the approximate annual  
19           quantity of the pesticide that is re-  
20           leased into the environment; and

21                 “(IV) other information or moni-  
22           toring data relating to the pesticide  
23           that is consistent with the information

1 and subsections (b) through (e) of  
2 Annex E, to the POPs Convention.

3 “(ii) PROVISION OF INFORMATION  
4 UNDER LRTAP POPS PROTOCOL.—Within  
5 60 days after the date of publication of the  
6 notice under subparagraph (B) regarding a  
7 proposal to list a pesticide on an Annex of  
8 the LRTAP POPs Protocol, or within a  
9 later date as determined by the Adminis-  
10 trator, any interested person may provide  
11 to the Administrator information on—

12 “(I) the potential for long-range  
13 transboundary atmospheric transport  
14 of the pesticide;

15 “(II) the toxicity of the pesticide;

16 “(III) the persistence of the pes-  
17 ticide, including biotic degradation  
18 process and rates of degradation prod-  
19 ucts;

20 “(IV) the bioaccumulation of the  
21 pesticide, including bioavailability;

22 “(V) the annual quantity of the  
23 pesticide manufactured and the loca-

1 “(VII) the approximate annual  
2 quantity of the pesticide released into  
3 the environment;

4 “(VIII) environmental monitoring  
5 data relating to the pesticide (in areas  
6 distant from sources);

7 “(IX) information on—

8 “(aa) alternatives to the  
9 uses of the pesticide and the effi-  
10 cacy of each alternative; and

11 “(bb) known adverse envi-  
12 ronmental or human health ef-  
13 fects associated with each alter-  
14 native;

15 “(X) information on—

16 “(aa) process changes, con-  
17 trol technologies, operating prac-  
18 tices, and other pollution preven-  
19 tion techniques that can be used  
20 to reduce the emissions of the  
21 pesticide; and

22 “(bb) the applicability and  
23 effectiveness of each technique

1                   “(XI) information on nonmone-  
2                   tary costs and benefits and the quan-  
3                   tifiable costs and benefits associated  
4                   with the use of each alternative de-  
5                   scribed in subclause (IX) or technique  
6                   described in subclause (X)(aa).

7                   “(E) REPORT BY ADMINISTRATOR.—Based  
8                   upon information received under this paragraph  
9                   and any other relevant information available to  
10                  the Administrator, the Administrator, not later  
11                  than 240 days after the date of publication of  
12                  a notice under subparagraph (B), after con-  
13                  sulting with the Secretary of Agriculture or, for  
14                  public health pesticides, with the Secretary of  
15                  Health and Human Services, shall issue for  
16                  public comment and peer review a report that  
17                  contains, at a minimum—

18                  “(i) information on the production  
19                  and uses in the United States of the pes-  
20                  ticide; and

21                  “(ii) a review of the benefits and risks  
22                  in the United States and internationally  
23                  associated with the production and uses in

1           “(4) NOTICE AND REPORT AFTER DECISION  
2           THAT GLOBAL ACTION IS WARRANTED UNDER THE  
3           POPS CONVENTION OR THAT FURTHER CONSIDER-  
4           ATION OF THE PESTICIDE IS WARRANTED UNDER  
5           THE LRTAP POPS PROTOCOL.—

6           “(A) APPLICABILITY.—This paragraph ap-  
7           plies if—

8                   “(i) the POPs Review Committee de-  
9                   cides, under paragraph 7(a) of Article 8 of  
10                  the POPs Convention, that global action is  
11                  warranted with respect to the pesticide  
12                  that is the subject of the proposal, or the  
13                  Conference decides under paragraph 8 of  
14                  that Article that the proposal shall pro-  
15                  ceed; or

16                  “(ii) the Executive Body determines  
17                  pursuant to paragraph 2 of Executive  
18                  Body Decision 1998/2 that further consid-  
19                  eration of the pesticide is warranted and  
20                  therefore requires 1 or more technical re-  
21                  views of the proposal.

22           “(B) NOTICE.—After the date of the deci-  
23           sion or determination under subparagraph (A),

1 “(i) publish in the Federal Register a  
2 notice of the decision or determination;  
3 and

4 “(ii) provide an opportunity for com-  
5 ment on the decision or determination.

6 “(C) REQUIRED ELEMENTS OF NOTICE.—

7 A notice under subparagraph (B) shall—

8 “(i) identify the pesticide that is the  
9 subject of the proposal;

10 “(ii) include a summary of the POPs  
11 Review Committee or Conference decision  
12 and the basis for the decision or the Exec-  
13 utive Body determination and the basis for  
14 the determination;

15 “(iii) for a pesticide proposed for ad-  
16 dition to an Annex of the POPs Conven-  
17 tion, request information and comment on  
18 socioeconomic considerations covered under  
19 Annex F of the POPs Convention, includ-  
20 ing on the technical feasibility and costs  
21 and benefits of the range of possible prohi-  
22 bitions outlined pursuant to clause (vii);

23 “(iv) for a pesticide proposed for list-

1 Protocol, request information and comment  
2 on—

3 “(I) any additional measures not  
4 outlined in the notice published pursu-  
5 ant to clause (vii) that may exist to  
6 reduce the risks of adverse health ef-  
7 fects on human health or the environ-  
8 ment that result from its long-range  
9 transboundary atmospheric transport;

10 “(II) whether any of the addi-  
11 tional measures or the measures out-  
12 lined in the notice published pursuant  
13 to subparagraph (vii) are technically  
14 feasible; and

15 “(III) the associated costs and  
16 benefits of the additional measures  
17 and the measures outlined in the no-  
18 tice published pursuant to subpara-  
19 graph (vii);

20 “(v) request information on any cur-  
21 rent or anticipated production or use of  
22 the pesticide that is the subject of the pro-  
23 posal for which the United States may

1           lowed restricted use or condition under the  
2           LRTAP POPs Protocol;

3           “(vi) request information set forth  
4           under subparagraph (D);

5           “(vii) outline a broad range of pos-  
6           sible actions that the United States might  
7           take to address any risks that the pesticide  
8           may pose;

9           “(viii) specify whether there have been  
10          any changes to registrations of or toler-  
11          ances for the pesticide since the date of  
12          publication of the notice under paragraph  
13          (3); and

14          “(ix) include a statement that any in-  
15          formation submitted may be part of the  
16          record of any cancellation proceeding re-  
17          lated to the pesticide that the Adminis-  
18          trator may undertake under section 6.

19          “(D) PROVISION OF INFORMATION.—With-  
20          in 60 days after the date of publication of the  
21          notice under subparagraph (B), or within a  
22          later date as determined by the Administrator,  
23          any interested person may provide to the Ad-



1 “(i) consistent with the information  
2 needs described in Annex F to the POPs  
3 Convention, any information relevant to—

4 “(I) a risk management evalua-  
5 tion carried out under paragraph 7 of  
6 Article 8 of the POPs Convention; or

7 “(II) a decision by the Con-  
8 ference under paragraph 9 of Article  
9 8 of the POPs Convention;

10 “(ii) consistent with the information  
11 needs for the technical review described in  
12 paragraph 2 of Executive Body Decision  
13 1998/2, any information relevant to such  
14 technical review or to an Executive Body  
15 decision made under paragraph 3 of Arti-  
16 cle 14 of the LRTAP POPs Protocol;

17 “(iii) any information relevant to an  
18 action under this subsection; and

19 “(iv) information on any article in use  
20 that consists of, contains, or is contami-  
21 nated with the pesticide.

22 “(E) REPORT BY ADMINISTRATOR.—Based  
23 upon information received under this paragraph

1           240 days after the date of publication of the  
2           notice under subparagraph (B), after consulting  
3           with the Secretary of Agriculture or, for public  
4           health pesticides, with the Secretary of Health  
5           and Human Services, shall issue a report for  
6           public comment and peer review that contains,  
7           at a minimum, information relating to the costs  
8           and benefits of the prohibitions or restrictions  
9           outlined in response to paragraph (4)(C)(vii)  
10          that could be placed on the sale, distribution,  
11          production, use, or disposal of the pesticide (in-  
12          cluding the possible consequences of using alter-  
13          native products or processes).

14          “(5) NOTICE AFTER RECOMMENDATION THAT  
15          CONFERENCE CONSIDER LISTING OR AFTER COM-  
16          PLETION OF A TECHNICAL REVIEW.—

17                 “(A) IN GENERAL.—If the POPs Review  
18          Committee recommends, under paragraph 9 of  
19          Article 8 of the POPs Convention, that the  
20          Conference consider making a Conference list-  
21          ing decision with respect to the pesticide in ac-  
22          cordance with the proposal, or after completion  
23          of a technical review of a proposal to list a pes-

1           “(i) publish in the Federal Register a  
2           notice of the recommendation or comple-  
3           tion of the technical review; and

4           “(ii) provide opportunity for comment  
5           on the recommendation or the technical re-  
6           view.

7           “(B) REQUIRED ELEMENTS.—A notice  
8           under subparagraph (A) shall—

9           “(i) include a summary of the POPs  
10          Review Committee recommendation and  
11          the basis for the recommendation or a  
12          summary of the technical review;

13          “(ii) summarize any control measures  
14          for the pesticide that are identified by the  
15          POPs Review Committee or in the tech-  
16          nical review; and

17          “(iii) include a statement that any in-  
18          formation submitted may be part of the  
19          record of any cancellation proceeding re-  
20          lated to the pesticide that the Adminis-  
21          trator may undertake under section 6.

22          “(6) PROVISION OF INFORMATION TO THE PUB-  
23          LIC.—Not later than March 1st of each calendar

1 or the Administrator has notified the public in other  
2 Federal Register notices of the changes), the Admin-  
3 istrator shall publish a notice in the Federal Reg-  
4 ister that—

5 “(A) identifies any pesticide that is the  
6 subject of a listing proposal under Article 8 of  
7 the POPs Convention or Article 14 of the  
8 LRTAP POPs Protocol and describes, as of  
9 December 31st of the previous calendar year  
10 (or June 31st of the current calendar year for  
11 notices published on September 1st), the exact  
12 status of the proposal in the relevant listing  
13 process, including—

14 “(i) whether the POPs Review Com-  
15 mittee or Conference has decided that,  
16 under Article 8, paragraphs 4 or 5 of the  
17 POPs Convention, the proposal to list the  
18 pesticide shall proceed to preparation of a  
19 risk profile of the pesticide;

20 “(ii) whether the POPs Review Com-  
21 mittee has completed a risk profile;

22 “(iii) whether the POPs Review Com-  
23 mittee or Conference has decided that,

1           positional to list the pesticide shall proceed to  
2           preparation of a risk management evaluation  
3           of the pesticide that includes analyses  
4           of possible control measures for the pesticide;  
5

6           “(iv) whether the POPs Review Committee has completed the risk management  
7           evaluation;  
8

9           “(v) whether the POPs Review Committee has made a listing recommendation  
10          to the Conference regarding the pesticide  
11          and a general description of the recommendation;  
12  
13

14          “(vi) whether the Executive Body has  
15          determined that a technical review of the  
16          proposal to list a pesticide on Annex I or  
17          II of the LRTAP POPs Protocol is warranted;  
18

19          “(vii) whether a technical review of a  
20          proposal to list a pesticide on Annex I or  
21          II of the LRTAP POPs Protocol has been  
22          completed; and

23          “(viii) whether any task force, work-

1           ommendation regarding the listing of the  
2           pesticide on Annex I or II of the LRTAP  
3           POPs Protocol and a description of the  
4           recommendation;

5           “(B) identifies any pesticide that the Con-  
6           ference or Executive Body has added to Annex  
7           A or B of the POPs Convention or Annex I or  
8           II of the LRTAP POPs Protocol since the last  
9           notice the Administrator published under this  
10          paragraph and provides a general description of  
11          the control measures related to the pesticide;  
12          and

13          “(C) describes generally any regulatory ac-  
14          tion that the Administrator has taken, is tak-  
15          ing, or has listed as under development or re-  
16          view in the Unified Regulatory Agenda (as re-  
17          quired by section 602 of title 5, United States  
18          Code) related to any pesticide that the Con-  
19          ference or Executive Body added to Annex A or  
20          B of the POPs Convention or Annex I or II of  
21          the LRTAP POPs Protocol since the last notice  
22          the Administrator published under this para-  
23          graph.

1 The Administrator shall consider any comments that  
2 the Administrator receives on the notices that the  
3 Administrator publishes under this paragraph.

4 “(7) CONSIDERATION OF INFORMATION IN CAN-  
5 CELLATION OF REGISTRATION OR PROHIBITION OF  
6 PRODUCTION FOR EXPORT OR EXPORT OF PES-  
7 TICIDES.—In a cancellation proceeding under section  
8 6 for a pesticide listed on Annex A or Annex B of  
9 the POPs Convention or Annex I or Annex II of the  
10 LRTAP POPs Protocol, the Administrator may con-  
11 sider—

12 “(A) the record compiled under paragraphs  
13 (3), (4), and (5) of this subsection;

14 “(B) domestic sale, distribution, produc-  
15 tion, export, and use of the pesticide;

16 “(C) national and international con-  
17 sequences that are likely to arise as a result of  
18 domestic regulatory actions (including the pos-  
19 sible consequences of using alternative products  
20 or processes);

21 “(D) for pesticides listed on Annex A or  
22 Annex B of the POPs Convention—

23 “(i) the POPs Review Committee rec-

1 “(ii) the Conference listing decision;

2 “(iii) information that the United  
3 States submits to the POPs Review Com-  
4 mittee or to the Conference pursuant to  
5 Article 8 of the POPs Convention; and

6 “(iv) the reports, including any  
7 versions of the reports revised to reflect in-  
8 formation received through public comment  
9 and peer review, that the Administrator is  
10 required to issue for public comment and  
11 peer review pursuant to paragraphs (3)(E)  
12 and (4)(E) of this subsection;

13 “(E) for pesticides listed on Annex I or  
14 Annex II of the LRTAP POPs Protocol—

15 “(i) any technical review conducted  
16 pursuant to paragraph 2 of Executive  
17 Body Decision 1998/2;

18 “(ii) the LRTAP POPs Protocol list-  
19 ing decision;

20 “(iii) the reports, including any  
21 version of the reports revised to reflect in-  
22 formation received through public comment  
23 or peer review, that the Administrator is



1 peer review pursuant to paragraphs (3)(E)  
2 and (4)(E) of this subsection; and

3 “(iv) information that the United  
4 States submitted to the Executive Body, or  
5 a subsidiary of the Executive Body, in re-  
6 lation to a technical review or listing deci-  
7 sion; and

8 “(F) scientific information included in or  
9 used to develop or support the items listed in  
10 subparagraphs (A), (B), (C), (D), and (E).

11 In determining the weight to give such scientific in-  
12 formation, the Administrator shall consider the ex-  
13 tent to which it is consistent with generally accepted  
14 scientific principles, including, when available, peer  
15 reviewed science and supporting studies.

16 “(8) NO EFFECT ON OTHER PROVISIONS.—  
17 Nothing in this subsection authorizes any sale, dis-  
18 tribution, use, production, or disposal of any POPS  
19 pesticide or LRTAP POPS pesticide that is prohib-  
20 ited under any other provision of law. Nothing in  
21 this subsection should be interpreted as interfering  
22 with or being a prerequisite to the Administrator  
23 taking any action authorized by section 6.

1       ducing a pesticide identified by the Administrator as  
2       listed on Annex III of the PIC Convention in a no-  
3       tice issued under paragraph (12)(C), any person  
4       that distributes in commerce the pesticide or active  
5       ingredient used in producing a pesticide for export  
6       shall comply with any export conditions or restric-  
7       tions identified by the Administrator in the notice.

8               “(10) PRE-EXPORT NOTICES.—

9                       “(A) IN GENERAL.—

10                               “(i) REQUIREMENT.—In the case of—

11                                       “(I) a pesticide or active ingre-  
12                                       dient used in producing a pesticide  
13                                       that the Administrator determines to  
14                                       be banned or severely restricted under  
15                                       paragraph (12)(A);

16                                       “(II) a pesticide or active ingre-  
17                                       dient used in producing a pesticide  
18                                       identified by the Administrator in a  
19                                       notice issued under paragraph  
20                                       (12)(C); or

21                                       “(III) a POPs pesticide the ex-  
22                                       port of which is not prohibited under  
23                                       paragraph (2);

1 provide to the Administrator notice of the  
2 intent of the exporter to export the pes-  
3 ticide.

4 “(ii) TIMING OF NOTICE FOR BANNED  
5 OR SEVERELY RESTRICTED PESTICIDE OR  
6 ACTIVE INGREDIENT USED IN PRODUCING  
7 A PESTICIDE.—

8 “(I) FIRST EXPORT.—In the case  
9 of a first export that an exporter  
10 makes from the territory of the  
11 United States to each importing for-  
12 eign state after the Administrator  
13 issues a notice under paragraph  
14 (12)(A), the exporter shall provide the  
15 notice so that the Administrator re-  
16 ceives the notice not earlier than 45  
17 nor later than 15 calendar days before  
18 the date of export.

19 “(II) SUBSEQUENT EXPORTS.—  
20 In the case of subsequent exports to  
21 the importing foreign state in cal-  
22 endar years subsequent to the notifi-  
23 cation provided under subclause (I),

1 notice not earlier than 45 nor later  
2 than 15 calendar days before the date  
3 of the first export in each calendar  
4 year.

5 “(iii) TIMING OF PRE-EXPORT NOTICE  
6 FOR PESTICIDES LISTED ON ANNEX III OF  
7 THE PIC CONVENTION.—

8 “(I) FIRST EXPORT.—In the case  
9 of a first export that an exporter  
10 makes from the territory of the  
11 United States to each importing for-  
12 eign state after the Administrator no-  
13 tifies the public under paragraph  
14 (12)(C), the exporter shall provide the  
15 notice so that the Administrator re-  
16 ceives the notice not earlier than 45  
17 nor later than 15 calendar days before  
18 the date of export.

19 “(II) SUBSEQUENT EXPORTS.—  
20 In the case of subsequent exports by  
21 the exporter to the importing foreign  
22 state in calendar years subsequent to  
23 the notification provided under sub-

1 receives the notice not earlier than 45  
2 nor later than 15 calendar days before  
3 the date of the first such subsequent  
4 export in each calendar year.

5 “(III) CHANGED CIRCUMSTANCES  
6 MERITING NEW NOTICE.—If condi-  
7 tions or restrictions imposed by the  
8 importing foreign state change and  
9 the Administrator notifies the public  
10 of the change under paragraph  
11 (12)(C), or if an earlier pre-export no-  
12 tice no longer applies, the exporter  
13 shall provide the notice so that the  
14 Administrator receives the notice not  
15 earlier than 45 nor later than 15 cal-  
16 endar days before the date of export.

17 “(iv) TIMING OF PRE-EXPORT NOTICE  
18 FOR PESTICIDE THE EXPORT OF WHICH IS  
19 NOT PROHIBITED UNDER PARAGRAPH  
20 (2).—

21 “(I) FIRST EXPORT OF THE CAL-  
22 ENDAR YEAR.—In the case of the first  
23 export that an exporter makes from

1           ticide not prohibited from being ex-  
2           ported under paragraph (2), the ex-  
3           porter shall provide the notice so that  
4           the Administrator receives the notice  
5           not earlier than 45 nor later than 15  
6           calendar days before the date of the  
7           first export.

8           “(II) SUBSEQUENT EXPORTS.—  
9           In the case of subsequent exports by  
10          the exporter to the importing foreign  
11          state in calendar years subsequent to  
12          the notification provided under sub-  
13          clause (I) to the importing foreign  
14          state, the exporter shall provide the  
15          notice so that the Administrator re-  
16          ceives the notice not earlier than 45  
17          nor later than 15 calendar days before  
18          the date of the first such subsequent  
19          export in each calendar year.

20          “(III) CHANGED CIRCUMSTANCES  
21          MERITING NEW NOTICE.—If the infor-  
22          mation provided in an earlier pre-ex-  
23          port notice is no longer accurate, the

1 notice not earlier than 45 nor later  
2 than 15 calendar days before the date  
3 of export.

4 “(B) ALTERNATE TIME FRAME FOR NO-  
5 TICES.—

6 “(i) DISCRETIONARY ALTERNATE  
7 TIME FRAMES.—Notwithstanding clauses  
8 (ii), (iii), and (iv) of subparagraph (A), the  
9 Administrator may set an alternate time  
10 frame if the Administrator determines that  
11 such alternate time frame is appropriate  
12 and is able, within such alternate time  
13 frame, to administer notice activities in ac-  
14 cordance with the PIC Convention and  
15 comply with the POPs Convention.

16 “(ii) MANDATORY REVIEW OF STATU-  
17 TORY TIME FRAMES AND PROCESSES.—  
18 Within 18 months of entry into force for  
19 the United States of the PIC Convention  
20 and within 18 months of entry into force  
21 for the United States of the POPs Conven-  
22 tion, the Administrator shall review the  
23 statutory time frames for receipt of pre-ex-

1 time frames and processes, the Adminis-  
2 trator shall consider whether amendments  
3 to the time frames and modifications to  
4 the processes would be appropriate to ad-  
5 minister notice activities in accordance  
6 with the PIC Convention and to comply  
7 with the POPs Convention.

8 “(C) CONTENT OF PRE-EXPORT NO-  
9 TICES.—

10 “(i) NOTICES FOR BANNED OR SE-  
11 VERELY RESTRICTED PESTICIDE OR AC-  
12 TIVE INGREDIENT USED IN PRODUCING A  
13 PESTICIDE.—A notice under subparagraph  
14 (A)(ii) shall include—

15 “(I) the name and address of the  
16 exporter;

17 “(II) the name and address of  
18 the appropriate designated national  
19 authority of the United States;

20 “(III) the name and address of  
21 the appropriate designated national  
22 authority of the importing foreign  
23 state, if available;



1 “(V) the name of the pesticide or  
2 active ingredient used in producing a  
3 pesticide for which the notice is re-  
4 quired;

5 “(VI) the expected date of ex-  
6 port;

7 “(VII) information relating to  
8 the foreseen uses of the pesticide or  
9 active ingredient used in producing a  
10 pesticide, if known, in the importing  
11 foreign state;

12 “(VIII) information on pre-  
13 cautionary measures to reduce expo-  
14 sure to, and emission of, the pesticide  
15 or active ingredient used in producing  
16 a pesticide;

17 “(IX) information relating to the  
18 concentration of the pesticide or active  
19 ingredient used in producing a pes-  
20 ticide; and

21 “(X) any other information speci-  
22 fied in Annex V to the PIC Conven-  
23 tion.

1           TION.—A notice under subparagraph  
2           (A)(iii) shall include—

3                   “(I) all of the information re-  
4                   quired to be included under subpara-  
5                   graph (C)(i);

6                   “(II) any information relating to  
7                   export conditions or restrictions iden-  
8                   tified by the Administrator in the no-  
9                   tice issued under paragraph (12)(C)  
10                  with respect to the pesticide;

11                  “(III) a general description of  
12                  the manner in which the export com-  
13                  plies with those conditions; and

14                  “(IV) any other information that  
15                  the Administrator determines by order  
16                  published in the Federal Register to  
17                  be necessary for effective enforcement  
18                  of the export conditions or restrictions  
19                  applicable to the pesticide.

20                  “(iii) NOTICES FOR PESTICIDE THE  
21                  EXPORT OF WHICH IS NOT PROHIBITED  
22                  UNDER PARAGRAPH (2).—A notice sub-  
23                  mitted to the Administrator under sub-

1 “(I) the name and address of the  
2 exporter;

3 “(II) the name and address of  
4 the importer;

5 “(III) a specification of the iden-  
6 tity of the POPs pesticide;

7 “(IV) a general description of  
8 how the export is in accordance with  
9 the provisions related to export in  
10 paragraph 2 of Article 3, or other ap-  
11 plicable provision, of the POPs Con-  
12 vention; and

13 “(V) such other information as  
14 the Administrator determines by order  
15 published in the Federal Register to  
16 be necessary for enforcement of the  
17 export-related obligations of the POPs  
18 Convention applicable to the pesticide.

19 “(D) PRE-EXPORT NOTICES ACCOM-  
20 PANYING EACH EXPORT.—An exporter shall en-  
21 sure that a copy of the most recent applicable  
22 pre-export notice accompanies each shipment  
23 for export and is available for inspection upon

1           “(i) any pesticide or active ingredient  
2           used in producing a pesticide that the Ad-  
3           ministrators has identified under paragraph  
4           (12)(C) as being listed on Annex III of the  
5           PIC Convention; or

6           “(ii) any POPs pesticide that is ex-  
7           ported.

8           “(E) RETENTION OF PRE-EXPORT NO-  
9           TICES.—

10           “(i) IN GENERAL.—An exporter re-  
11           quired to provide a notice under clauses  
12           (iii) and (iv) of subparagraph (A) shall  
13           comply with sections 8 and 9 and any reg-  
14           ulations promulgated under those sections  
15           with regard to maintenance of the notice  
16           and other documents used to generate the  
17           notice and with regard to their availability  
18           for inspection and copying.

19           “(ii) TIME PERIOD FOR RETEN-  
20           TION.—Notwithstanding clause (i), such  
21           exporter shall maintain a copy of the no-  
22           tice and other documents used to generate  
23           the notice for a period of not less than 3

1 “(11) LABELING REQUIREMENTS.—

2 “(A) IN GENERAL.—In the case of any  
3 pesticide or active ingredient used in producing  
4 a pesticide that is the subject of a notice issued  
5 under subparagraph (A) or (C) of paragraph  
6 (12) and that is sold, distributed, or produced,  
7 the pesticide or active ingredient used in pro-  
8 ducing a pesticide, shall, in accordance with the  
9 PIC Convention—

10 “(i) bear labeling information relating  
11 to risks or hazards to human health or the  
12 environment; and

13 “(ii) be accompanied by shipping doc-  
14 uments that include any relevant safety  
15 data sheets on the pesticide.

16 “(B) CUSTOM CODES.—A pesticide or ac-  
17 tive ingredient used in producing a pesticide  
18 that is the subject of a notice issued under  
19 paragraph (12)(C) and that is distributed or  
20 sold for export shall be accompanied by ship-  
21 ping documents that bear, at a minimum, any  
22 appropriate harmonized system customs codes  
23 assigned by the World Customs Organization.

1           “(A) DETERMINATION WHETHER PES-  
2           TICIDE IS BANNED OR SEVERELY RE-  
3           STRICTED.—

4           “(i) IN GENERAL.—The Administrator  
5           shall determine whether a pesticide or ac-  
6           tive ingredient used in producing a pes-  
7           ticide is banned or severely restricted with-  
8           in the United States (as those terms are  
9           defined by the PIC Convention).

10          “(ii) NOTICE OF DETERMINATIONS.—  
11          Notwithstanding any other provision of  
12          law, the Administrator shall issue to the  
13          Secretariat of the PIC Convention and the  
14          public a notice of each determination  
15          under subparagraph (A) that includes—

16               “(I) in the case of a notice to the  
17               Secretariat of the PIC Convention,  
18               the information specified in Annex I  
19               to the PIC Convention; and

20               “(II) in the case of a notice to  
21               the public, at a minimum, a summary  
22               of that information.

23          “(B) NOTICE TO FOREIGN COUNTRIES.—

1 notice of intent to export under paragraph  
2 (10)(A)(ii), the Administrator shall provide  
3 a copy of the notice to the designated na-  
4 tional authority of the importing foreign  
5 state.

6 “(ii) NONIDENTIFIED DESIGNATED  
7 NATIONAL AUTHORITY.—In a case in  
8 which a designated national authority has  
9 not been identified, the Administrator shall  
10 provide the notice of intent to export to  
11 any other appropriate official of the im-  
12 porting foreign state, as identified by the  
13 Administrator.

14 “(C) NOTICE TO PUBLIC.—

15 “(i) IN GENERAL.—The Administrator  
16 shall issue a notice to inform the public  
17 of—

18 “(I) any pesticide that is listed  
19 on Annex III to the PIC Convention;  
20 and

21 “(II) any condition or restriction  
22 of an importing foreign state that is  
23 applicable to the import, in accord-

1                   “(ii) TIMING.—A notice required  
2                   under clause (i) shall be issued not later  
3                   than 90 days after, and any conditions or  
4                   restrictions described in clause (i)(II) shall  
5                   take effect not later than 180 days after,  
6                   the date of receipt of a notice from the  
7                   Secretariat of the PIC Convention who—

8                   “(I) transmits import decisions of  
9                   the parties to the PIC Convention; or

10                  “(II) provides notice of the fail-  
11                  ure of the parties to provide import  
12                  decisions.

13                  “(iii) TREATMENT OF CONDITIONS  
14                  AND RESTRICTIONS.—A condition or re-  
15                  striction identified by a notice required  
16                  under clause (i) shall be considered to be  
17                  an export condition or restriction for the  
18                  purpose of paragraph (9).

19                  “(D) NOTICE OF EXEMPTION.—The Ad-  
20                  ministrator may issue a notice exempting any  
21                  pesticide or active ingredient used in producing  
22                  a pesticide from the requirements of paragraphs  
23                  (9) through (11) if the Administrator deter-



1           “(13) HARMONIZATION OF POPS CONVENTION  
2           AND LRTAP POPS PROTOCOL.—

3           “(A) IN GENERAL.—If a pesticide is both  
4           a POPs pesticide and a LRTAP POPs pes-  
5           ticide, in the case of a conflict between a provi-  
6           sion of this subsection applicable to a POPs  
7           pesticide and a provision of this subsection ap-  
8           plicable to a LRTAP POPs pesticide, the more  
9           stringent provision shall apply, as determined  
10          by the Administrator.

11          “(B) APPLICATION.—In the case of a pes-  
12          ticide described in subparagraph (A), this para-  
13          graph shall be applied in such a manner as to  
14          ensure that the United States is in compliance  
15          with its obligations under the POPs Convention  
16          and the LRTAP POPs Protocol with respect to  
17          the pesticide.

18          “(14) HARMONIZATION OF POPS CONVENTION  
19          AND PIC CONVENTION.—

20          “(A) IN GENERAL.—If the export of a pes-  
21          ticide is addressed or restricted under para-  
22          graphs (2) through (7) and paragraphs (9)  
23          through (12), all of those paragraphs shall



1           “(2) IMPORTATION OF PESTICIDES AND DE-  
2       VICES.—The Secretary of the Treasury, in consulta-  
3       tion with the Administrator, shall prescribe regula-  
4       tions for the enforcement of subsection (c) of this  
5       section.”.

6   **SEC. 4. CONFORMING AMENDMENTS.**

7       The Federal Insecticide, Fungicide, and Rodenticide  
8   Act is amended—

9           (1) in section 3(b) (7 U.S.C. 136a(b)), in the  
10      matter preceding paragraph (1), by striking “A pes-  
11      ticide” and inserting “Except as provided in section  
12      17, a pesticide”; and

13      (2) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

14          (A) in subparagraph (R), by striking “or”  
15          after the semicolon;

16          (B) in subparagraph (S), by striking the  
17          period and inserting “; or”; and

18          (C) by adding at the end the following:

19           “(T) to violate any provision of section 17  
20      or any regulation promulgated under that sec-  
21      tion.”.

1 **SEC. 5. CONFORMING AMENDMENTS TO FIFRA TABLE OF**  
 2 **CONTENTS.**

3 The table of contents in section 1(b) of the Federal  
 4 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.  
 5 prec. 121) is amended—

6 (1) in the items relating to section 2, by adding  
 7 at the end the following:

“(pp) Conference.  
 “(qq) Conference Listing Decision.  
 “(rr) Designated national authority.  
 “(ss) Executive Body.  
 “(tt) Executive Body Decision 1998/2.  
 “(uu) HCH.  
 “(vv) LRTAP POPs pesticide.  
 “(ww) LRTAP POPs protocol.  
 “(xx) PCB.  
 “(yy) PIC Convention.  
 “(zz) POPs Convention.  
 “(aaa) POPs pesticide.  
 “(bbb) POPs Review Committee.”;

8 and

9 (2) in the items relating to section 17, by strik-  
 10 ing the items relating to subsections (d) and (e) and  
 11 inserting the following:

“(d) Cooperation in international efforts generally.  
 “(e) Pops Convention, LRTAP Pops Protocol, and PIC Convention.  
 “(1) In general.  
 “(2) Prohibitions.  
 “(3) Notice and report after decision that screening criteria are met under  
 the POPS Convention or after risk profile submitted  
 under the LRTAP POPS Protocol.  
 “(4) Notice and report after decision that global action is warranted under  
 the POPS Convention or that further consideration of the  
 pesticide is warranted under the LRTAP POPS Protocol.  
 “(5) Notice after recommendation that conference consider listing or after  
 completion of a technical review.

50

48

“(11) Labeling requirements.

“(12) Notice requirements and exemption.

“(13) Harmonization of POPS convention and LRTAP POPS protocol.

“(14) Harmonization of POPS convention and PIC convention.

“(f) Regulations.

“(1) In general.

“(2) Importation of pesticides and devices.”.

○

The CHAIRMAN. Today we are pleased to have Steve Johnson, Administrator of the Environmental Protection Agency, with us to provide background on PICs and POPs, explain the United States' obligations and offer the administration's views on the legislation. As many of you know, Steve is no stranger to this committee, having served in the Office of Pesticide Programs at EPA for more than 25 years; a good amount of that time, sitting at this witness table discussing issues critical to farmers across the country.

Before recognizing the Administrator, however, I would first like to yield to the ranking member, Mr. Peterson, for any remarks he would like to make.

**OPENING STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA**

Mr. PETERSON. Thank you, Mr. Chairman, and I want to join you in thanking Mr. Lucas and Mr. Holden for their work and your leadership, as well. I have a statement a little shorter than yours that basically says the same thing, so I will just associate myself with your remarks in the interest of time and I will just use my time to make one pitch to the administrator.

I have been doing a lot of work on ethanol for the last few months and one of the car companies tell me that one of our problems with getting these flex fuel cars in the United States is that we have got to go through some bureaucracy in the EPA that they think is kind of unnecessary, and that in Brazil they are making 99 percent of their cars flex fuel and one of the reasons we are not doing more is because of this process that has to be done on every engine, which I think is over the top. So if you would look at that at some point or if we could visit about that at some point.

Mr. JOHNSON. I would be happy to. We are very, very supportive of both, of flex fuel vehicles, as well as ethanol production and certainly, as you move to E-85 in the ethanol, 85 percent ethanol, there are significant environmental benefits, so it is—

Mr. PETERSON. Right. But they tell me that for energy security the engine, every single engine, which seems to be like more than necessary, so whatever you can do, we would appreciate it.

Mr. JOHNSON. I would be happy to look into it and talk to you. Thank you.

Mr. PETERSON. Yes, thank you.

The CHAIRMAN. It is now my pleasure to recognize the author of the legislation, the gentleman from Oklahoma, Mr. Lucas.

Mr. LUCAS. Thank you, Mr. Chairman, and just simply let me note that until we take action on these agreements, the United States will continue to sit on the sideline while very important scientific decisions and discussions are taking place. We need to be a part of that process. And with that, add my written statement to the record and yield back, sir.

The CHAIRMAN. I thank the gentleman.

Any other statements for the record will be accepted at this time.  
[The prepared statements follow:]

PREPARED STATEMENT OF HON. FRANK D. LUCAS, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF OKLAHOMA

In September of last year, I joined with Chairman Goodlatte, Ranking Member Peterson, and Mr. Holden, the ranking member of my subcommittee, in introducing H.R. 3849, the PIC and POPs Conventions and the LRTAP POPs Protocol Implementation Act.

We introduced this bipartisan legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) so that the United States could fulfill its obligations to ratify the POPs, PICs, and LRTAP agreements. It is imperative that the Congress continue to take steps to implement these treaties so that the United States is no longer on the outside looking in during the important discussions of the convention that will ultimately lead to decisions that may affect us here at home.

That being said, I can understand why some people may be concerned about amending legislation that deals with the regulation of pesticides. But let me be very clear: this legislation does no more or less than is required to adjust current policy so that the United States will be in compliance with these treaties.

The United States has contributed much to the negotiation of the treaties and continues to provide millions of dollars in funding for technical assistance. However, until Congress takes action to ratify these agreements, the United States will continue to sit on the sideline while important scientific discussions take place. These are very fair and necessary environmental treaties that offer our citizens protection from toxic substances, while offering the United States the flexibility to continue current policies and determine what practices best meet our own domestic needs.

I look forward to the future passage of this legislation and I thank Chairman Goodlatte for his leadership on this issue by holding today's hearing.

PREPARED STATEMENT OF HON. HENRY CUELLAR, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF TEXAS

- Chairman Goodlatte, Ranking Member Peterson, thank you for your decision to hold this hearing on this important legislation.
- It is important because, absent implementing legislation, the Stockholm Convention, the Aarhus Protocol and the Rotterdam Convention cannot be ratified; the opportunities provided by these agreements left unfulfilled.
- It is important because, absent passage of implementing legislation, the United States must sit on the sidelines of important environmental discussions regarding persistent organic pollutants.
- It is important because, absent passage of implementing regulation, the United States will continue to find its leadership in regulatory decision making diminished.
- I welcome Administrator Johnson to the committee and look forward to his testimony.
- Thank you again, Mr. Chairman for holding this hearing.

The CHAIRMAN. We will now turn to our witness, the Honorable Stephen Johnson, Administrator of the U.S. Environmental Protection Agency, accompanied by Ms. Susan Hazen, Principal Deputy Assistant Administrator of the Office of Pesticide Programs and Toxic Substances, also with the EPA. And we are pleased to welcome both of you. Administrator Johnson.

**STATEMENT OF STEPHEN L. JOHNSON, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY SUSAN HAZEN, PRINCIPAL DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF PESTICIDE PROGRAMS AND TOXIC SUBSTANCES, U.S. ENVIRONMENTAL PROTECTION AGENCY**

Mr. JOHNSON. Thank you very much, Mr. Chairman and members of the committee. I appreciate the opportunity and the invitation to appear before you to discuss these three important international environmental agreements; the Stockholm POPs Convention, the Rotterdam PIC Convention and the LRTAP POPs Protocol. Becoming a party to these agreements is a priority for the Bush administration and I am here today to support H.R. 3849, as

introduced, and encourage its expeditious passage. I would also like to ask that my written statement be entered into the record.

Each of these agreements contributes to a healthier global environment. The Stockholm Convention and the LRTAP POPs Protocol takes steps to address the production, use and release of substances that persist in the environment for long periods of time and bio-cumulate in the food chain. The reduction or elimination of POP sources called for in these agreements will reduce exposures that affect human health and the environment. The Rotterdam Convention promotes information exchange and informed risk-based decision making in the global movement of hazardous chemicals and pesticides, empowering governments to make their own domestic science and risk-based decisions in an informed manner.

While the United States was a key player in the negotiation of the POPs, PIC and LRTAP agreements, without party status, our participation is currently limited at every level. Decisions being made about the substances under these agreements have a significant impact on global production and use, as well as how and when they are traded. But without party status, the United States no longer plays a leadership role and our ability to influence decisions is steadily decreasing. The United States must have a real and equal voice at the table. We must ensure that available scientific information is carefully reviewed and considered, and the decisions are made in accordance with the terms of the respective agreements.

All three of these agreements are in force and the addition of new substances is being considered. The Bush administration supports full U.S. engagement in the processes provided for by these agreements, taking into consideration both our domestic and our international priorities. To do so, the administration has committed to working closely with all members of this committee to enact this legislation to retain our position as the international leader in chemical environmental safety.

The administration has carefully reviewed H.R. 3849 and believes it provides the legal authority to implement effectively all of the Federal Insecticide, Fungicide and Rodenticide Act related obligations of these international agreements. The bill also provides a regulatory standard and approach generally consistent with the U.S. Government's method of evaluating pesticides and possible risk management actions.

Finally, it is consistent with the approach taken by a legislation passed out of the House Energy and Commerce Committee last week to allow the United States to comply with the obligations of these agreements addressed by the Toxic Substances Control Act. The administration fully supports H.R. 3849, as introduced. We believe the bill moves us forward domestically and reaffirms the commitments we made internationally to protect human health and the environment.

For example, the bill prohibits any production or use of the substances listed in the Stockholm Convention or in the LRTAP POPs Protocol that are inconsistent with the agreements. The bill also implements the Rotterdam Convention obligations relating to export controls and labeling. Most importantly, the legislation enables the United States to join future convention amendments.



As a consequence of our non-party status, we are limited to being observers. For instance, in the Stockholm Convention, despite our scientific expertise, we are on the outside looking in as the expert committee reviews substances nominated for addition to the treaty. This is an influential activity, but because we lack ratification status, we were not able to pursue a seat on the significant committee for its first term when crucial precedent-setting decisions are made.

Our observer status, however, could be changed by congressional action. If we were to become a party to the POPs agreement in the near-term, I am convinced that the nomination of a U.S. expert to this committee for the next term would be strongly welcomed by our colleagues in other countries. President Bush recognized the importance of full participation in the international chemical arena when he announced in the Rose Garden that we would sign the Stockholm Convention.

I believe the provisions of this bill would allow the United States to take back its leadership role through effective participation and implementation of and in full compliance with the obligations of these agreements. Our absence from these treaties diminishes the voice of some of the best science and policy experts in the world, as well as our approach to chemical and pesticide management.

Thank you very much, Mr. Chairman, members of the committee, for your leadership on this issue and I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Johnson appears at the conclusion of the hearing.]

The CHAIRMAN. thank you, Administrator Johnson. I do have some questions and my first is while no farm groups, to my knowledge, have expressed any concerns with this legislation or these specific treaties, several have reservations about U.S. involvement in environmental treaties, generally. If we can just look at the Montreal Protocol as an example of why our producers feel that they are not always treated fairly in these international forums. Regarding the POPs treaty, what, if any, provisions of the treaty prevent the U.S. from being compelled to take an action that puts our producers at a disadvantage?

Mr. JOHNSON. Well, thank you very much, Mr. Chairman. I think, first of all, it is important why do we need to be a party to this treaty? It is because we need to make sure that our domestic interests are protected. And there are a number of procedures that is embodied in the legislation, in your legislation and also in the treaty language, that help us to make sure that it is our domestic interests that are protected, and one of those is what is referred to as the opt-in or opt-out provision of the treaty, and it is something that the United States worked very hard to be embodied in the treaty.

The opt-in provision, in essence, says as the international process takes its course, then, we, the United States, will decide, based upon our own domestic process; in other words, we will run our own domestic process and then make a decision as to whether we want to opt-in to the international decision. And so we think that there is an extraordinary amount of protection for our domestic interests. We want to make sure our domestic interests and our sovereignty is protected and this legislation provides that.

The CHAIRMAN. And what is the deadline for the U.S. to ratify the POPs treaty to ensure that we can participate in the negotiations regarding the current list of proposed chemicals be added?

Mr. JOHNSON. Well, my strong recommendation would be as soon as possible. There are actually seven meetings that will be coming up over the coming months; three that I would like to highlight. LRTAP Executive Body is scheduled to meet in December of this year and they are considering five new persistent organic pollutants. The PIC, the Prior Inform Consent Committee, or Conference of Parties, COP, is scheduled for fall of 2006. They are focusing on asbestos. The POPs Conference of the Parties is scheduled for spring of 2007, where a number of substances, including pesticides and nomination of new experts are going to be considered. And there are these other parts of seven meetings that are coming up, so I urge, as soon as possible. Obviously, the sooner we do ratify it, then the sooner that we can begin planting the necessary seeds to demonstrate our desire and need for involvement on expert committees, as well as on the Conference of the Parties.

The CHAIRMAN. Are you aware of any concerns among farm groups regarding any of the pesticides that are currently proposed to be listed under the POPs treaty?

Mr. JOHNSON. I am not. In fact, the current POPs treaty, the pesticides that are listed are currently banned in the United States.

The CHAIRMAN. Questions have recently raised as to whether or not the production use or distribution of methyl bromide would be affected by the POPs treaty or this legislation and I wonder if you could clarify that issue?

Mr. JOHNSON. Methyl bromide is not one of the pesticides that is either on the current list or in the proposed list of POPs that are being considered in the international community.

The CHAIRMAN. Thank you. Gentleman from Minnesota.

Mr. PETERSON. Thank you, Mr. Chairman. What pesticides, specifically, can we expect to be identified as a new POPs; do you have a list?

Mr. JOHNSON. Yes, sir, I do. There are two pesticides that are being considered as new POPs. Both of these are listed in the LRTAP or the Long-Range Transport piece of treaty. The two pesticides are lindane, Mexico proposed lindane; and chlordecone, which is also known in the United States, as kepone. Those are the two pesticides that are currently proposed as new POPs.

Mr. PETERSON. And they are already banned in the U.S.?

Mr. JOHNSON. Kepone has been out of production since 1976 in the United States. Lindane is currently used for two uses in the United States; one is head lice treatment, the other is sea treatment. Both of those uses are allowed under the current LRTAP treaty.

Mr. PETERSON. So it wouldn't really change any practices in the U.S., then?

Mr. JOHNSON. At this point, I would not expect, again, lindane; I don't know how the science review will go in the international forum. Again, that is another reason why we would want to make sure that we are participants and actually at the table.

Mr. PETERSON. If a chemical or pesticide is added to these conventions, are we or any other country that is a party to this automatically bound by the decision?

Mr. JOHNSON. No, we are not.

Mr. PETERSON. All right. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. The gentleman from Oklahoma, Mr. Lucas, is recognized.

Mr. LUCAS. Thank you, Mr. Chairman. Mr. Johnson, how long have we, in effect, been in an observer kind of a status at these meetings?

Mr. JOHNSON. Well, let us see. I guess since 2004.

Mr. LUCAS. And clearly, we have been able to interact to provide guidance, but being an observer is not like being a participant.

Mr. JOHNSON. That is correct.

Mr. LUCAS. Describe for us the difference, literally, that would bring.

Mr. JOHNSON. Well, what has happened is, being a non-party really has impacted our participation and it really does relegates our role to a non-party observer. We do not participate in the decision making process; we don't physically have a seat in the Conference of the Parties. The parties are not required to solicit or accept our opinions or even to address our opinions and we can't even be selected as a member of the committees, these expert groups or working groups, so we are, effectively, shut out and the world acknowledges that as a nation, the United States are among the leaders in the scientific community and policy communities dealing with these important pesticide tools.

Mr. LUCAS. So it is a dramatic detrimental affect, not only on the consumers of these chemicals, but also the potential developers, also?

Mr. JOHNSON. Absolutely.

Mr. LUCAS. Very detrimental. Sounds like it is something that is much overdue that absolutely we must do. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania, Mr. Holden.

Mr. HOLDEN. Thank you, Mr. Chairman. Mr. Johnson, I just have one question. Assuming H.R. 3849 becomes law, would Congress still have to amend FIFRA in order to comply with the conventions every time a new POPs pesticide is added?

Mr. JOHNSON. Right now we would, in discussions with the Senate, we are working very closely with Senate Foreign Relations Committee as to whether, in fact, a vote would or would not be required on each new pesticide, so that is still an item for discussion. But with regard to FIFRA and the pesticides law, this legislation implements fully and no other changes would be necessary to FIFRA for us to comply with these treaties.

Mr. HOLDEN. Not necessary?

Mr. JOHNSON. That is correct.

Mr. HOLDEN. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from North Carolina, Mr. Etheridge, is recognized.

Mr. ETHERIDGE. Thank you, Mr. Chairman. And I just have one question, Mr. Johnson. Let me thank you for being here and I do think it is critical, as you have indicated, the United States have

a voice in these discussions and I think we ought to move this legislation quickly because it is important, as has been indicated. My question is that, and I don't know that we have covered it yet, you might have and if you did, I missed it and I apologize, but are there any pesticides or herbicides that might be currently considered as being identified as a persistent organic pollutant or that might be a candidate for being taken off the market here in the United States as a result of this?

Mr. JOHNSON. At this point in time, no. Again, the POPs and PIC and LRTAP processes have really just begun, really beginning in 2004, and that the pesticides are being considered as new Stockholm Convention POPs are lindane and kepone or chlordecone, as it is chemically known. There are some pesticides that are being considered as new PICs, a Prior Informed Consent piece of the treaty, and those pesticides are tributyltin and endosulfon, and tributyltin, right now in the United States, there is a voluntary phase-out so that pesticide will be voluntarily phased out; and endosulfon is already severely restricted in the United States.

Mr. ETHERIDGE. Let me just follow that up and if you would just share with us, what kind of timeline that we would have for public comment when a chemical is being reviewed for possible—if you could just share that with us, that would be helpful.

Mr. JOHNSON. As part of the Stockholm POPs, referred to as addition process, there are a number of steps in the international process that this legislation helps to ensure that we have a full public notice and comment process, beginning at the early days when the International Committee does its screening process; within 45 days of the decision, EPA will publish in the Federal Register a notice that will allow for a 60-day public comment period and within 240 days publish a report containing the production use and risk benefit information. Then if it is decided, based upon that, that the international community proceeds with a full risk assessment, then, and global action is warranted, then again, as part of the legislation, we certainly support another 45, or another notice and comment, allowing for a 60-day comment period, again, within 240 days publishing a report containing cost benefit information.

Then once the risks are evaluated and that if there is a recommendation that is made to the international community, again, there is a notice that we publish in the Federal Register and notice on the recommendation and providing the public an opportunity for comment, and then after all of that, if we decided, as a government, that we wanted to pursue this, then we would go through our routine cancellation procedures, which are quite rigorous, with a lot of public comment and opportunity for hearings and then after that, then we, the United States, would ultimately then make our decision as to whether we wanted to opt in to the agreement or not.

Mr. ETHERIDGE. Thank you. I think that was great to get that on the record, at least, that the public has adequate time for public.

Mr. JOHNSON. Be happy to. Thank you.

Mr. ETHERIDGE. Thank you. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. I thank the gentleman. Any other members seek recognition to ask questions of the witness? If not, Administrator

Johnson, you are a very efficient witness. You seem to have made your points well and I think this legislation has been carefully vetted and examined by a number of people who are interested in the issue, so we look forward to working with you as we move it forward and thank you for your coming here today and allowing us to have one of the shortest hearings on record.

Mr. JOHNSON. Mr. Chairman, Mr. Peterson, again, thank you for your leadership and I look forward to working with you as this moves forward. Thanks so much.

The CHAIRMAN. I thank you. Without objection, the record of today's hearing will remain open for 10 days to receive additional material and supplementary written responses from witnesses to any question posed by a member of the panel. This hearing of the Committee on Agriculture is adjourned.

[Whereupon, at 10:50 a.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]

### Stockholm Convention on Persistent Organic Pollutants

The Stockholm Convention on Persistent Organic Pollutants (POPs) aims to protect human health and the environment from chemicals that are of particular concern because they are known to be toxic, bioaccumulative, resistant to natural breakdown, and capable of long-range transport. Each of the twelve chemicals in the Convention has been scientifically linked to adverse human health effects and are already banned, severely restricted, or controlled in the United States. These chemicals are still in use in many places abroad, particularly in developing countries.

The Convention prohibits production and use of eight pesticides and industrial chemicals subject to certain exemptions. It restricts DDT use to public health applications and prohibits new PCB production, while imposing import and export controls on listed chemicals. Parties promote the application of Best Available Techniques (BAT) on key industrial sources and ensure POPs wastes are managed in an environmentally sound manner. The Convention creates a science-based procedure to consider the addition of other chemicals that may be POPs. The Convention entered into force in May 2004, and 128 countries are now Parties.

### LRTAP POPs Protocol

The Convention on Long-Range Transboundary Air Pollution (LRTAP) POPs Protocol is a regional agreement negotiated primarily by developed countries. It was finalized prior to the global Stockholm Convention, and the Protocol was used in some ways as a model for the Convention.

The structure and core obligations of the Stockholm Convention and LRTAP POPs agreements are very similar in restricting the production, use, or release of certain toxic chemicals. The main differences between the two agreements are: (1) LRTAP POPs is a regional agreement open only to states in Europe, the former Soviet States, Canada, and the United States, (2) LRTAP POPs does not include the same kind of trade measures nor provisions for financial and technical assistance, and (3) LRTAP covers four additional chemicals in its scope, each of which is banned or controlled in the United States. The LRTAP POPs Protocol entered into force in October 2003, and there are currently 28 Parties to the Protocol.

### The Rotterdam Convention on Prior Informed Consent

The Rotterdam Convention establishes an information-sharing process that facilitates informed decision-making about whether to import a listed chemical. Both importing and exporting Parties have responsibilities to facilitate information exchange on the risks associated with a listed chemical. The scope of the Convention is limited to banned or severely restricted industrial chemicals and pesticides and to severely hazardous pesticide formulations. Importing Parties make a notification of whether/how they will allow for imports of each listed chemical, and exporting Parties ensure that any exports are not contrary to an importing Party's notification.

The Rotterdam Convention includes a technical committee, the Chemical Review Committee, which reviews notifications in accordance with the Convention's criteria, and may recommend to the Parties whether to list additional chemicals. The Convention entered into force in February 2004, and there are currently 107 Parties to the Convention.

**TESTIMONY OF  
STEPHEN L. JOHNSON  
ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE  
COMMITTEE ON AGRICULTURE  
U.S. HOUSE OF REPRESENTATIVES**

**July 20, 2006**

Mr. Chairman and Members of the Committee, thank you for the invitation to appear before you today to discuss three very important international environmental agreements: the Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention), the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam PIC Convention), and the Protocol on Persistent Organic Pollutants, negotiated under the United Nations Economic Commission for Europe's Convention on Long Range Transboundary Air Pollution (the LRTAP POPs Protocol). Becoming a Party to these three agreements has been a priority for the Administration since the spring of 2001, when President Bush announced in a Rose Garden ceremony that the United States would sign the Stockholm Convention. I am here today to support H.R. 3849, introduced by Mr. Lucas, Mr. Goodlatte, Mr. Peterson, and Mr. Holden in September of 2005, and to ask this Committee to move forward as expeditiously as possible.

The United States was a key player in the negotiation of each of these three agreements. Our scientists led the way in reviewing and assessing the substantive matters addressed by these agreements, and the United States also provided financial and technical assistance. But now our participation is limited at every level. While we have attended all of the major meetings that were held to discuss these treaties since October 2003, when the first of these agreements came into force, we are no longer in a leadership role and our ability to influence decisions is steadily decreasing. The Administration is committed to working closely with all Members of this Committee and the U.S. House of Representatives to facilitate enactment of implementing legislation to ensure that the

United States becomes a Party to these agreements and retains its current position as the international leader in chemical environmental safety.

A number of new substances are being considered for addition to these agreements, and I strongly believe that it is critical for the United States to have a real and equal voice at the table. Decisions made about the substances under these agreements will have an impact on global production of and trade in these substances. There are currently five substances under consideration in the POPs Convention, seven substances in the LRTAP POPs Protocol, and eight substances under review for PIC. The United States will want to ensure that available scientific information is carefully reviewed and considered during the decision-making process, and that the decisions made by the Parties are in accordance with the terms of the respective agreements. I am convinced that the United States should be fully engaged in the process, taking into consideration both domestic and international priorities.

It is my view that each of these agreements, in its own way, contributes to a healthier global environment and to a healthier America. In that light, the Administration has reviewed H.R. 3849, introduced in September of 2005, very carefully. We believe that this bill provides the legal authority necessary for the United States to implement all of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA)-related obligations of these international agreements. The bill also provides a regulatory standard and approach that is generally consistent with that already applied by the U.S. Government when evaluating pesticides and possible risk management actions. H. R. 3849 is also consistent with the approach taken by the bill passed out of the House Energy and Commerce Committee last week that will allow the United States to comply with the provisions of these agreements that are addressed by the Toxic Substances Control Act. I would like to thank Chairman Goodlatte and his staff, and other Members of this Committee for introducing a bill that would allow the United States to join these agreements which seek to address some of the world's most persistent and toxic substances. I applaud the Chairman for taking a leadership role.



H.R. 3849 reflects the elements that this Administration believes are needed to move forward domestically, and to reaffirm our commitment internationally, to promote environmental health and safety. The bill, for example, contains language to ensure that any manufacturing, use, processing, distribution in commerce for export, and disposal of the substances listed in the Stockholm Convention or in the LRTAP POPs Protocol that is inconsistent with the obligations of those agreements would no longer be authorized under U.S. law. The proposed legislation effectively implements the Rotterdam Convention obligations relating to export controls, export notification, and labeling for PIC-listed substances. The bill also requires EPA to issue notices that would communicate to our own domestic producers and exporters the importing decisions of other countries and, at the same time, allows the public to provide us with significant information as we prepare for the international process and our own domestic proceedings.

The legislation would also enable the United States to join future convention amendments that are consistent with U.S. law and policy. This is a very important element of this legislation for the Administration. Our absence from these treaties diminishes the voice of some of the best science and policy experts in the world in the international process and tends to decrease the weight afforded to the United States' approach to chemical and pesticide management.

I would now like to take just a few minutes to discuss several events that have occurred in the context of these treaties that highlight the immediate consequences of our current non-Party status, and why I think it is in the best interests of the United States to be at the table. In the Stockholm Convention, the terms of reference for the Persistent Organic Pollutants Review Committee (POPRC) was decided upon and its membership was chosen at the first Conference of the Parties in May of 2005. The POPRC is the group of experts who review the chemicals that are nominated to be considered for addition to the treaty, a fundamentally influential activity and a significant committee. Despite the recognized depth of the United States in terms of our scientific expertise and the significant role we play in the commercial aspects of the substances covered by these agreements, the United States, lacking ratification status, was not able to pursue a seat on the POPRC for its first term, when crucial, precedent setting decisions would be made. The same issue

of our non-involvement in the critical Chemical Review Committee had occurred a few months earlier in the context of the Rotterdam Convention.

But our absence from the POPRC could be changed by Congressional action. If the United States were to become a Party to the POPs agreement in the near term, I am convinced that the appointment of a U.S. expert to the POPRC would be strongly welcomed by our colleagues in other countries. While the next opportunity to appoint new experts to the POPRC occurs at the 2007 Conference of the Parties, we will need time to build momentum for a U.S. appointment and to deposit our instrument of ratification for the Agreement.

It is not in the interests of the United States to continue to have our participation in these agreements limited to "observer" status. President Bush recognized the importance of full U.S. participation in the international chemical arena when he stood in the Rose Garden and announced that the United States would sign the Stockholm Convention. I know you understand and agree that the United States needs implementing legislation that would allow us to take the final steps and join these three important environmental agreements now.

The Administration has reviewed H.R. 3849, as introduced, and I believe that the provisions of the bill would allow the United States to take back its leadership role through effective participation in the implementation of the agreements and to regulate, as necessary, for compliance with the obligations of these three agreements. We support the Chairman's efforts to pass this bill and look forward to working with the Committee as the process advances.

Thank you again for the opportunity to discuss these important international environmental agreements today. If the Committee should need any technical assistance, we stand ready to help. Again, I want to thank you for your support and leadership in finalizing the implementing legislation necessary for the United States to meet the obligations under these three agreements.

I will be pleased to answer any questions.

July 18, 2006

The Honorable Bob Goodlatte, Chairman  
House Committee on Agriculture  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Goodlatte:

The United States government must soon ratify several international treaties in order to meet its obligations under the Stockholm Convention on Persistent Organic Pollutants (POPs), the Aarhus Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution (LRTAP), and the Rotterdam Convention on the Prior Informed Consent (PIC). The undersigned organizations support these Conventions and respectfully ask for your favorable support of H.R. 3849, which will allow the U.S. to effectively implement these agreements in a manner that protects domestic sovereignty while maintaining our international position as a leader in regulatory decision making. We would further ask that you reject any potential amendments to the legislation that would undermine its crafted intent or negatively alter our current domestic regulatory framework.

The treaties that are the subject of H.R. 3849 are already in force yet the U.S. does not have a vote in the important decisions currently being made. These treaties are the direct result of U.S. leadership and involvement throughout the negotiation process. However, until implementing legislation is adopted, the U.S. cannot join the more than 125 other governments that have already ratified the agreements. In short, H.R. 3849 is essential if our country is to remain an important player in the global environmental debate.

H.R. 3849 will amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and permit the U.S. to fully implement its obligations under the treaties. The bill also establishes procedures to ban or otherwise regulate chemical substances or mixtures added to the treaties in the future. Under the legislation the U.S. would work within an international framework and factor in global concerns while also reserving domestic authority to make regulatory decisions that affect the U.S.. H.R. 3849 is the necessary next step to assuring that the U.S. can fully and effectively participate in these important international agreements. We hope we can count on your strong support for H.R. 3849.

If we can provide any additional information on our position, please contact Bo Warren with CropLife America, at (202) 872-3841. Further information on the treaties implemented under H.R. 3849 is attached for your information.

Sincerely,

**Agricultural Retailers Association**  
**CropLife America**  
**The Fertilizer Institute**